
HOUSE BILL No. 1334

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-8; IC 3-9.

Synopsis: Legislative campaign spending limits. Provides that a candidate for election to the Indiana house of representatives may not spend more than a total of \$15,000 before a primary election and \$30,000 during the period between primary election day and general election day. Provides that the expenditure limits for a candidate for election to the Indiana senate are double the corresponding limits for candidates for election to the house of representatives. Provides that expenditures made by other persons to support a legislative candidate count toward the candidate's expenditure limit. Provides that expenditures made by a state political party for the support of more than one candidate do not count toward the expenditure limit of any candidate. Requires persons (other than the candidate or candidate's committee) making expenditures on behalf of a candidate of more than \$100 in the election cycle to make an accounting of all expenditures to the candidate's committee. Requires the treasurer of a candidate's committee to include in the treasurer's annual report information about outside expenditures. Authorizes the Indiana election commission to impose civil penalties for violations. Provides that the expenditure limits do not apply to write-in candidates and candidates nominated by petition.

Effective: July 1, 2001.

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January 17, 2001, read first time and referred to Committee on Elections and Apportionment.



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Introduced

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

HOUSE BILL No. 1334

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 3-8-2-7, AS AMENDED BY P.L.202-1999,
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2001]: Sec. 7. (a) The declaration of each candidate required
4 by this chapter must be signed before a person authorized to administer
5 oaths and contain the following information:

6 (1) The candidate's name, printed or typewritten as:

7 (A) the candidate wants the candidate's name to appear on the
8 ballot; and

9 (B) the candidate's name is permitted to appear on the ballot
10 under IC 3-5-7.

11 (2) A statement that the candidate is a registered voter and the
12 location of the candidate's precinct and township (or ward and
13 city or town), county, and state.

14 (3) The candidate's complete residence address, and if the
15 candidate's mailing address is different from the residence
16 address, the mailing address.

17 (4) A statement of the candidate's party affiliation.

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(5) A statement that the candidate complies with all requirements under the laws of Indiana to be a candidate for the above named office, including any applicable residency requirements, and that the candidate is not ineligible to be a candidate due to a criminal conviction that would prohibit the candidate from serving in the office.

(6) A request that the candidate's name be placed on the official primary ballot of that party to be voted on, the office for which the candidate is declaring, and the date of the primary election.

(7) A statement that the candidate:

(A) is aware of the provisions of IC 3-9 regarding campaign finance and the reporting of campaign contributions and expenditures; ~~and~~

(B) agrees to comply with the provisions of IC 3-9; **and**

(C) if the candidate is a candidate for a legislative office, that the candidate has complied with the provisions of IC 3-9-3.5-5 for the period before primary election day.

The candidate must separately sign the statement required by this subdivision.

(8) A statement as to whether the candidate has been a candidate for state or local office in a previous primary or general election and whether the candidate has filed all reports required by IC 3-9-5-10 for all previous candidacies.

(9) If the candidate is subject to IC 3-9-1-5, a statement that the candidate has filed a campaign finance statement of organization for the candidate's principal committee or is aware that the candidate may be required to file a campaign finance statement of organization not later than noon seven (7) days after the final date to file the declaration of candidacy under section 11 of this chapter.

(10) The candidate's signature.

(b) The commission shall provide that the form of a declaration of candidacy includes the following information near the separate signature required by subsection (a)(7):

(1) The dates for filing campaign finance reports under IC 3-9.

(2) The penalties for late filing of campaign finance reports under IC 3-9.

(c) A declaration of candidacy must include a statement that the candidate requests the name on the candidate's voter registration record be the same as the name the candidate uses on the declaration of candidacy. If there is a difference between the name on the candidate's declaration of candidacy and the name on the candidate's voter

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1 registration record, the officer with whom the declaration of candidacy
 2 is filed shall forward the information to the voter registration officer of
 3 the appropriate county as required by IC 3-5-7-6(e). The voter
 4 registration officer of the appropriate county shall change the name on
 5 the candidate's voter registration record to be the same as the name on
 6 the candidate's declaration of candidacy.

7 SECTION 2. IC 3-8-7-8, AS AMENDED BY P.L.202-1999,
 8 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 JULY 1, 2001]: Sec. 8. (a) Either the chairman and secretary of a state
 10 convention or the state chairman and state secretary of the political
 11 party holding the state convention shall certify each candidate
 12 nominated at the convention to the secretary of state by noon August
 13 1 before the general election.

14 (b) The certification must state the following:

15 (1) Whether each candidate nominated by the convention has
 16 complied with IC 3-9-1-5 by filing a campaign finance statement
 17 of organization.

18 (2) That the candidate:

19 (A) is aware of the provisions of IC 3-9 regarding campaign
 20 finance and the reporting of campaign contributions and
 21 expenditures; ~~and~~

22 (B) agrees to comply with the provisions of IC 3-9; **and**

23 **(C) if the candidate is a candidate for a legislative office,**
 24 **that the candidate has complied with the provisions of**
 25 **IC 3-9-3.5-5 for the period before primary election day.**

26 The candidate must separately sign the statement required by this
 27 subdivision.

28 (c) The commission shall prescribe the form of the certification of
 29 nomination for the offices. The commission shall provide that the form
 30 of the certification of nomination include the following information
 31 near the separate signature required by subsection (b)(2):

32 (1) The dates for filing campaign finance reports under IC 3-9.

33 (2) The penalties for late filing of campaign finance reports under
 34 IC 3-9.

35 (d) A certificate of nomination must include a statement that the
 36 candidate requests the name on the candidate's voter registration record
 37 be the same as the name the candidate uses on the certificate of
 38 nomination. If there is a difference between the name on the candidate's
 39 certificate of nomination and the name on the candidate's voter
 40 registration record, the officer with whom the certificate of nomination
 41 is filed shall forward the information to the voter registration officer of
 42 the appropriate county as required by IC 3-5-7-6(e). The voter

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1 registration officer of the appropriate county shall change the name on
 2 the candidate's voter registration record to be the same as the name on
 3 the candidate's certificate of nomination.

4 SECTION 3. IC 3-9-1-12, AS AMENDED BY P.L.176-1999,
 5 SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2001]: Sec. 12. (a) A committee may disband at any time in
 7 the manner prescribed by this section.

8 (b) The commission or a county election board may administratively
 9 disband a committee in the manner prescribed by this section.

10 (c) The commission has exclusive jurisdiction to disband any of the
 11 following:

- 12 (1) A candidate's committee for state office.
- 13 (2) A candidate's committee for legislative office.
- 14 (3) A legislative caucus committee.
- 15 (4) A political action committee that has filed a statement or
- 16 report with the election division.
- 17 (5) A regular party committee that has filed a statement or report
- 18 with the election division.

19 (d) A county election board has exclusive jurisdiction to disband
 20 any of the following:

- 21 (1) A candidate's committee for a local office.
- 22 (2) A candidate's committee for a school board office.
- 23 (3) A political action committee that has filed a statement or
- 24 report with the election board, unless the political action
- 25 committee has also filed a report with the election division.
- 26 (4) A regular party committee that has filed a statement or report
- 27 with the election board, unless the regular party committee has
- 28 also filed a report with the election division.

29 (e) The commission or a county election board may administratively
 30 disband a committee in the following manner:

- 31 (1) Not later than the last Friday of January of each year, the
- 32 election division or county election board shall review the list of
- 33 committees that have filed statements of organization with the
- 34 division or board under this article.
- 35 (2) If the election division or county election board determines
- 36 that a committee:
- 37 (A) has not filed any report of expenditures during the
- 38 previous three (3) calendar years;
- 39 (B) owes no debts to any person other than:
- 40 (i) a civil penalty assessed by the commission or board; or
- 41 (ii) to an individual who was a candidate and also serves as
- 42 the chairman or treasurer of the candidate's committee, if the

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- 1 committee filed a report under this article; and
 2 (C) last reported cash on hand in an amount that does not
 3 exceed one thousand dollars (\$1,000), if the committee filed
 4 a report under this article;
 5 the election division or county election board may begin a
 6 proceeding before the commission or board to administratively
 7 disband the committee.
 8 (3) The election division or county election board shall provide
 9 notice of the proceeding by certified mail to the last known
 10 address of the chairman and treasurer of the committee.
 11 (4) The commission or board may issue an order administratively
 12 dissolving the committee and waiving any outstanding civil
 13 penalty previously imposed by the commission or board, if the
 14 commission or board makes the following findings:
 15 (A) There is no evidence that the committee continues to
 16 receive contributions, make expenditures, or otherwise
 17 function as a committee.
 18 (B) The prudent use of public resources makes further efforts
 19 to collect any outstanding civil penalty imposed against the
 20 committee wasteful or unjust.
 21 (C) According to the best evidence available to the
 22 commission or board, the dissolution of the committee will not
 23 impair any contract or impede the collection of a debt or
 24 judgment by any person.
 25 (5) The election division shall arrange for the publication in the
 26 Indiana Register of an order administratively disbanding a
 27 committee. A county election board shall publish a notice under
 28 IC 5-3-1 stating that the board has disbanded a committee under
 29 this subsection. The notice must state the date of the order and the
 30 name of the committee, but the board is not required to publish
 31 the text of the order.
 32 (6) An order issued under this subsection takes effect immediately
 33 upon its adoption, unless otherwise specified in the order.
 34 (f) If the chairman or treasurer of a committee wishes to disband the
 35 committee, the committee must do either of the following:
 36 (1) Give written notification of the dissolution and transfer a
 37 surplus of contributions less expenditures to any one (1) or a
 38 combination of the following:
 39 (A) One (1) or more regular party committees.
 40 (B) One (1) or more candidate's committees.
 41 (C) The election division.
 42 (D) An organization exempt from federal income taxation

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under Section 501 of the Internal Revenue Code.

(E) Contributors to the committee, on a pro rata basis.

(2) Use the surplus in any other manner permitted under IC 3-9-3-4.

Before a committee may transfer or use any surplus under subdivision (1) or (2), the committee must pay any civil penalties imposed under IC 3-9-4-20.

(g) Except as provided in subsection (e) concerning the waiver of civil penalties, a dissolution or transfer of funds does not relieve the committee or the committee's members from civil or criminal liability.

SECTION 4. IC 3-9-3.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]:

Chapter 3.5. Campaign Expenditures by Candidates for Legislative Offices

Sec. 1. This article, to the extent not inconsistent with this chapter, applies to expenditures made for a candidate for a legislative office.

Sec. 2. As used in this chapter, "candidate" refers only to a candidate for election to a legislative office. The term does not include the following:

- (1) A write-in candidate for a legislative office.**
- (2) A candidate for a legislative office nominated by a petition of nomination under IC 3-8-6.**

Sec. 3. As used in this chapter, "expenditure period" means the following:

- (1) With respect to election to the house of representatives of the general assembly, the two (2) year period beginning the day after a general election day and ending the next general election day.**
- (2) With respect to election to a particular seat in the senate of the general assembly, the four (4) year period beginning the day after a general election day for that senate seat and ending the next general election day for that senate seat.**

Sec. 4. (a) As used in this chapter, "outside expenditure" means an expenditure made:

- (1) by someone other than the candidate or the candidate's committee; and**
- (2) in support of the candidate.**

(b) The term does not include an expenditure made by the political party:

- (1) with which the candidate is associated; and**

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(2) in support of more than one (1) candidate.

Sec. 5. (a) A candidate for election to the house of representatives of the general assembly and the candidate's committee, together, may not spend more than an aggregate of fifteen thousand dollars (\$15,000) during the part of the expenditure period before primary election day.

(b) A candidate for election to the senate of the general assembly and the candidate's committee, together, may not spend more than an aggregate of thirty thousand dollars (\$30,000) during the part of the expenditure period before primary election day.

Sec. 6. (a) A candidate for election to the house of representatives of the general assembly and the candidate's committee, together, may not spend more than an aggregate of thirty thousand dollars (\$30,000) during the part of the expenditure period beginning on primary election day and ending on general election day.

(b) A candidate for election to the senate of the general assembly and the candidate's committee, together, may not spend more than an aggregate of sixty thousand dollars (\$60,000) during the part of the expenditure period beginning on primary election day and ending on general election day.

Sec. 7. (a) An outside expenditure is counted as an expenditure made by the candidate's committee and must be included in determining when the candidate has reached the limits established by this chapter.

(b) The following are not considered expenditures for the purpose of this chapter:

(1) Civil penalties:

(A) imposed under IC 3-9-4-20; and

(B) paid by a committee.

(2) Transfer of a committee's surplus upon dissolution of the committee under IC 3-9-1-12.

Sec. 8. (a) A person that makes outside expenditures for a candidate in the aggregate of more than one hundred dollars (\$100) during an expenditure period must promptly provide the candidate's committee of the candidate for whom the expenditure was made with a detailed written accounting of the expenditure.

(b) A person required to make a report under subsection (a) must make the accounting to the candidate's committee not more than ten (10) days after any expenditure that is required to be reported under subsection (a) is made.

Sec. 9. In addition to the information disclosed under

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1 IC 3-9-5-14 for an annual report filed under IC 3-9-5-10, the
 2 treasurer of a candidate's committee shall disclose the following in
 3 the treasurer's annual report:

4 (1) The name of each person who has provided the candidate's
 5 committee with an accounting under section 8 of this chapter
 6 since the most recent report filed by the treasurer under
 7 IC 3-9-5-10.

8 (2) The amount and description of each expenditure item
 9 made by each person described in subdivision (1).

10 **Sec. 10. After the general election, a candidate's committee may,**
 11 **subject to this chapter, keep the balance of the money and spend**
 12 **the money for purposes permitted by this article.**

13 SECTION 5. IC 3-9-4-16 IS AMENDED TO READ AS FOLLOWS
 14 [EFFECTIVE JULY 1, 2001]: Sec. 16. (a) In addition to any other
 15 penalty imposed, a person who does any of the following is subject to
 16 a civil penalty under this section:

17 (1) Fails to file with the election division a report in the manner
 18 required under IC 3-9-5.

19 (2) Fails to file a statement of organization required under
 20 IC 3-9-1.

21 (3) Is a committee or a member of a committee who disburses or
 22 expends money or other property for any political purpose before
 23 the money or other property has passed through the hands of the
 24 treasurer of the committee.

25 (4) Makes a contribution other than to a committee subject to this
 26 article or to a person authorized by law or a committee to receive
 27 contributions on the committee's behalf.

28 (5) Is a corporation or labor organization that exceeds any of the
 29 limitations on contributions prescribed by IC 3-9-2-4.

30 (6) Makes a contribution in the name of another person.

31 (7) Accepts a contribution made by one (1) person in the name of
 32 another person.

33 (8) Is not the treasurer of a committee subject to this article, and
 34 pays any expenses of an election or a caucus except as authorized
 35 by this article.

36 (9) Commingles the funds of a committee with the personal funds
 37 of an officer, a member, or an associate of the committee.

38 (10) Wrongfully uses campaign contributions in violation of
 39 IC 3-9-3-4.

40 (11) Violates IC 3-9-2-12.

41 (12) Fails to make an accounting of expenditures required by
 42 IC 3-9-3.5-8.

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(b) This subsection applies to a person who is subject to a civil penalty under subsection (a)(1) or (a)(2) for filing a defective report or statement. If the commission determines that a person failed to file the amended report or statement of organization not later than noon five (5) days after being given notice under section 14 of this chapter, the commission may assess a civil penalty. The penalty is ten dollars (\$10) for each day the report is late after the expiration of the five (5) day period, not to exceed one hundred dollars (\$100) plus any investigative costs incurred and documented by the election division. The civil penalty limit under this subsection applies to each report separately.

(c) This subsection applies to a person who is subject to a civil penalty under subsection (a)(1) or (a)(2) for a delinquent report or statement. If the commission determines that a person failed to file the report or statement of organization by the deadline prescribed under this article, the commission shall assess a civil penalty. The penalty is fifty dollars (\$50) for each day the report or statement is late, with the afternoon of the final date for filing the report or statement being calculated as the first day. The civil penalty under this subsection may not exceed one thousand dollars (\$1,000) plus any investigative costs incurred and documented by the election division. The civil penalty limit under this subsection applies to each report separately.

(d) This subsection applies to a person who is subject to a civil penalty under subsection (a)(3), (a)(4), (a)(6), (a)(7), (a)(8), (a)(9), or (a)(10). If the commission determines that a person is subject to a civil penalty under subsection (a), the commission may assess a civil penalty of not more than one thousand dollars (\$1,000), plus any investigative costs incurred and documented by the election division.

(e) This subsection applies to a person who is subject to a civil penalty under subsection (a)(5). If the commission determines that a person is subject to a civil penalty under subsection (a)(5), the commission may assess a civil penalty of not more than three (3) times the amount of the contribution in excess of the limit prescribed by IC 3-9-2-4, plus any investigative costs incurred and documented by the election division.

(f) This subsection applies to a person who is subject to a civil penalty under subsection (a)(11). If the commission determines that a candidate or the candidate's committee has violated IC 3-9-2-12, the commission shall assess a civil penalty equal to the greater of the following, plus any investigative costs incurred and documented by the election division:

- (1) Two (2) times the amount of any contributions received.
- (2) One thousand dollars (\$1,000).

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(g) This subsection applies to a person who is subject to a civil penalty under subsection (a)(12). If the commission determines that a person is subject to a civil penalty under subsection (a)(12), the commission may assess a civil penalty of not more than two (2) times the amount of the expenditures for which the person failed to make an accounting as required by IC 3-9-3.5-8. If the commission is required to impose on the candidate's committee a civil penalty under section 20 of this chapter, the commission shall impose a civil penalty on the candidate's committee of two (2) times the amount of the expenditures for which the person failed to make an accounting as required by IC 3-9-3.5-8.

(h) All civil penalties collected under this section shall be deposited with the treasurer of state in the campaign finance enforcement account.

~~(h)~~ (i) Proceedings of the commission under this section are subject to IC 4-21.5.

SECTION 6. IC 3-9-4-20 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 20. (a) This section applies only to a candidate and a candidate's committee of a candidate for a legislative office.

(b) If the commission determines that the expenditure limits set by IC 3-9-3.5 have been exceeded, the commission shall impose a civil penalty on the candidate's committee equal to the sum of the following:

(1) Two (2) times the amount of the expenditures that exceed the limit set by IC 3-9-3.5-5 or IC 3-9-3.5-6, whichever is applicable.

(2) Any investigative costs incurred and documented by the commission.

(c) The commission shall deduct from a civil penalty imposed under subsection (b) the amount of any civil penalties the commission imposes under section 16(g) of this chapter on a person who fails to account for expenditures as required under IC 3-9-3.5-8.

(d) Civil penalties collected under this section shall be deposited with the treasurer of state in the campaign finance enforcement account.

(e) Proceedings of the commission under this section are subject to IC 4-21.5.

(f) Notwithstanding IC 3-9-1-12, upon dissolution of a committee, the candidate and the members of the candidate's committee are not liable for any civil penalties imposed on the

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1 candidate's committee under this section. However, if the
2 candidate forms another committee for election to a state,
3 legislative, or local office, that committee is liable for any civil
4 penalties imposed under this section.

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